ssm

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL (ST) NO.7625 OF 2007

The New India Assurance Co. Ltd. ...Appellants.

Vs.

Smt. Parvati Shankar Vatkar & Ors. ...Respondents.

Ms. D.S.Shah i/by Mr. Dinesh Gupta for the appellants.
Mr. T.J. Mendon for the respondents.

CORAM : ANOOP V. MOHTA,J.

DATED : 28th August, 2007

P.C.

1. The learned counsel appearing for the original claimants and the appellants fairly conceded in view of an amended Section 4 of the Workmen's Compensation Act-1923 (for short, "WC Act") and submitted that the amount of compensation as awarded is contrary to the provision of Section 4 of WC Act, specially explanation (2).

2. Admittedly, the accident took place on 27th June, 2000. The amendment to the WC Act by Act of 46 of Section 3 w.e.f. 08/12/2000 has replaced amount Rs.4000/- instead of Rs.2,000/-. Therefore, in view of Section 4(1)(a) the claimants are required to pay amount equal to 50% of monthly wages of the deceased

workman multiplied by the relevant factor.

3. In the present case, based on the material available, the learned Judge has considered Rs.3,000/- p.m. salary and based upon that calculated 50% of the same and multiplied it by the relevant age factor.

4. Taking the amendment into account, the monthly wages cannot be more than Rs.2000/- for the computation. In the result, the calculation, by consent is replaced as under:-

Rs.1,000/- x 203.85 = Rs.2,03,850/-

. As awarded already this needs to be added with Rs.1000/- costs. Therefore, total amount payable is Rs.2,04,850/-.

5. The award is therefore, modified to the above extent. The award is otherwise remained unchallenged and undisturbed.

6. So far as the interest is concerned, Section 14A of the WC Act, the grant of 12% interest and finality cannot be said to be unjust and contrary to the law

which is within the framework.

7. In the result, the appeal is, accordingly, allowed. The award is modified to the above extent.

8. The interest shall be payable on this modified amount at the rate of 12% p.a. from August, 2004 till the date of passing of the award.

9. In the result, the appeal is accordingly, allowed. The award is modified to the above extent.

10. The appeal is, therefore, disposed of, accordingly.

(ANOOP V. MOHTA, J.)